

INDIANA BOARD OF TAX REVIEW
Small Claims
Final Determination
Findings and Conclusions

Petition No.: 30-009-16-1-5-01405-17
Petitioner: American Homes 4 Rent Properties Six, LLC
Respondent: Hancock County Assessor
Parcel No.: 30-07-29-202-029.000-009
Assessment Year: 2016

The Indiana Board of Tax Review (Board) issues this determination in the above matter, and finds and concludes as follows:

Procedural History

1. The Petitioner initiated its 2016 appeal with the Hancock County Assessor on June 14, 2016.
2. On August 17, 2017, the Hancock County Property Tax Assessment Board of Appeals (PTABOA) issued its determination lowering the assessment but not to the level requested by the Petitioner.
3. The Petitioner timely filed a Petition for Review of Assessment (Form 131) with the Board, and elected the Board's small claims procedures.
4. The Board issued a notice of hearing on October 19, 2017.
5. Administrative Law Judge (ALJ) Patti Kindler held the Board's administrative hearing on December 18, 2017. She did not inspect the property.
6. Certified tax representative Jeremy Miller appeared for the Petitioner and was sworn as a witness. Attorney Marilyn Meighen appeared for the Respondent.¹ County Assessor Mary Noe was sworn as a witness for the Respondent.

Facts

7. The property under appeal is a single-family rental property located at 1629 Copeland Farms Drive in Greenfield.
8. The PTABOA determined the 2016 total assessment is \$107,200 (land \$25,800 and improvements \$81,400).
9. At the hearing, the Petitioner's representative requested a total assessment of \$92,400.

¹ Attorney Brian Cusimano also appeared on behalf of the Respondent but did not participate in the hearing.

Record

10. The official record for this matter is made up of the following:

- a) Form 131 with attachments,
- b) A digital recording of the hearing,
- c) Exhibits:

Petitioner Exhibit 1:	Memorandum from the Department of Local Government Finance (DLGF) entitled “Gross Rent Multiplier (GRM) Income Approach to Value on Single-family and Small Multi-family Properties,” dated November 20, 2003,
Petitioner Exhibit 2:	Memorandum from the DLGF entitled “Appeals,” dated August 24, 2007,
Petitioner Exhibit 3:	2011 Real Property Assessment Manual pages 2 and 3,
Petitioner Exhibit 4:	Sales disclosure form for the subject property dated May 6, 2013,
Petitioner Exhibit 5:	GRM analysis and calculation for 1/1/2015 to 1/1/2016,
Petitioner Exhibit 6:	GRM analysis and calculation for 1/1/2012 to 1/1/2016,
Petitioner Exhibit 7:	Information from Zillow.com for the property located at 928 Webb Drive in Greenfield.
Respondent Exhibit A:	Respondent’s burden analysis,
Respondent Exhibit B:	Subject property record card,
Respondent Exhibit C:	PTABOA worksheet,
Respondent Exhibit D:	Petitioner’s GRM analysis including Assessor’s handwritten data,
Respondent Exhibit E1:	Paired sales analysis summary sheet,
Respondent Exhibit E2:	Paired sales analysis,
Respondent Exhibit E3:	Sales disclosure forms for the following properties: 1764 Kingen Drive, 1018 Montgomery Court, and 1090 West Muskegon Drive,
Respondent Exhibit F:	Sales disclosure form for the subject property. ²
Board Exhibit A:	Form 131 with attachments, including Power of Attorney for Mr. Miller,
Board Exhibit B:	Hearing notice dated October 19, 2017,
Board Exhibit C:	Hearing sign-in sheet,

² Respondent’s Exhibit F was allegedly introduced at the hearing. However, the Board is unable to find the exhibit in the jacket. At the hearing, the Respondent’s representative described the exhibit as “a duplicate of Jeremy’s exhibit.” This exhibit purports to be identical to Petitioner’s Exhibit 4. The Board does not consider the absence of Respondent’s Exhibit F to be significant given the existence of Petitioner’s Exhibit 4.

Board Exhibit D: Notice of Appearance for Ms. Meighen and Mr. Cusimano.

d) These Findings and Conclusions.

Contentions

11. Summary of the Petitioner's case:

- a) The property's assessment is too high. When the property was initially assessed, the Assessor erroneously considered it a "homesteaded property" rather than a rental property. The sales disclosure form clearly states the subject property is utilized as a rental property. Assessing officials are required to develop and apply a GRM to assess small rental properties. *Miller argument; Pet'r Ex. 1, 2, 3, 4.*
- b) The PTABOA subsequently lowered the total assessment, but they utilized an inaccurate GRM. The PTABOA established a GRM for the subject property only considering "other properties the Petitioner had appealed" rather than relying on "all data that is out in the marketplace." *Miller argument (referencing Resp't Ex. C); Pet'r Ex. 1, 2, 3, 4.*
- c) In support of his argument, Mr. Miller presented two GRM analyses. The first analysis focused on five single-family rental properties located in Hancock County. These properties all sold in 2015 and are located near the subject property's neighborhood. To develop a GRM Mr. Miller utilized the sale prices and rental income data for the properties. The income data came from various sites, including his company's files, the Brokers Listing Cooperative (BLC), and Zillow.com. Mr. Miller divided the sale prices of the five properties by their rental incomes to arrive at an average GRM of 88. He then multiplied the subject property's monthly rent of \$1,050 by the GRM of 88 for an estimated market value-in-use of \$92,400. Mr. Miller testified that he complied with Uniform Standards of Professional Appraisal Practice (USPAP) in performing this analysis. *Miller testimony; Pet'r Ex. 5.*
- d) In his second analysis, Mr. Miller developed a GRM by examining rental income and sales data for nine properties located in the subject property's neighborhood. Mr. Miller included the subject property as one of the nine properties in this analysis. Using the same methodology as above, Mr. Miller developed a GRM of 99. Granted, some of the sales utilized in this analysis took place as far back as 2012, but the properties are similarly situated and the PTABOA also utilized older sales. This analysis yielded a value of \$103,950 for the subject property. *Miller testimony; Pet'r Ex. 6.*
- e) In developing his analyses, Mr. Miller relied mainly on Zillow.com for his rental rate information because it is the "de facto of rental companies" in the marketplace. He did not consider the "estimated property values" from Zillow.com because only the rental rates and sale prices are relevant when developing a GRM. *Miller argument; Pet'r Ex. 5, 6.*

12. Summary of the Respondent's case:
- a) The subject property is assessed correctly. The Petitioner attacked the methodology used by the Assessor to determine the property's assessment. After the Petitioner filed an appeal, the PTABOA valued the property using the GRM method based on rental income data provided by the Petitioner's representative for several rental properties under appeal. *Meighen argument; Resp't Ex. B, C.*
 - b) The PTABOA relied on four sales of rental properties in the subject property's neighborhood to develop a GRM. In doing so, the PTABOA was able to eliminate differences in market values between neighborhoods. The PTABOA analyzed each properties' age, square footage, sale price, and rental rate. Additionally, the PTABOA relied only on verified data and did not utilize data from Zillow. To trend the sales to the proper valuation date, the PTABOA developed, and relied on, a paired sales analysis. The neighborhood values and rental rates trended upward, approximately 2% per year. Based on the four sales and the Petitioner's rental income data, the PTABOA determined the appropriate GRM was 102. *Noe testimony; Resp't Ex. C, D, E.*

Burden of Proof

13. Generally, the taxpayer has the burden to prove that an assessment is incorrect and what the correct assessment should be. *See Meridian Towers East & West v. Washington Twp. Ass'r*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *see also Clark v. State Bd. of Tax Comm'rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998). The burden-shifting statute as amended by P.L. 97-2014 creates two exceptions to that rule.
14. First, Ind. Code § 6-1.1-15-17.2 “applies to any review or appeal of an assessment under this chapter if the assessment that is the subject of the review or appeal is an increase of more than five percent (5%) over the assessment for the same property for the prior tax year.” Ind. Code § 6-1.1-15-17.2(a). “Under this section, the county assessor or township assessor making the assessment has the burden of proving that the assessment is correct in any review or appeal under this chapter and in any appeals taken to the Indiana board of tax review or to the Indiana tax court.” Ind. Code § 6-1.1-15-17.2(b).
15. Second, Ind. Code § 6-1.1-15-17.2(d) “applies to real property for which the gross assessed value of the real property was reduced by the assessing official or reviewing authority in an appeal conducted under IC 6-1.1-15.” Under those circumstances, “if the gross assessed value of real property for an assessment date that follows the latest assessment date that was the subject of an appeal described in this subsection is increased above the gross assessed value of the real property for the latest assessment date covered by the appeal, regardless of the amount of the increase, the county assessor or township assessor (if any) making the assessment has the burden of proving that the assessment is correct.” Ind. Code § 6-1.1-15-17.2(d). This change was effective March 25, 2014, and has application to all appeals pending before the Board.

16. Here, the total assessed value decreased from \$111,300 in 2015 to \$107,200 in 2016. The Respondent's representative argued that the burden should remain with the Petitioner. The Petitioner's representative did not dispute this fact. Accordingly, the burden shifting provisions of Ind. Code § 6-1.1-15-17.2 do not apply and the burden remains with the Petitioner.

Analysis

17. The Petitioner failed to make a prima facie case for reducing the assessment.
- a) Real property is assessed based on its market value-in-use. Ind. Code § 6-1.1-31-6(c); 2011 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.4-1-2). The cost approach, the sales comparison approach, and the income approach are three generally accepted techniques to calculate market value-in-use. Assessing officials primarily use the cost approach but other evidence is permitted to prove an accurate valuation. Such evidence may include actual construction costs, sales information regarding the subject or comparable properties, appraisals, and any other information compiled in accordance with generally accepted appraisal principles.
 - b) Regardless of the method used, a party must explain how its evidence relates to the relevant valuation date. *O'Donnell v. Dep't of Local Gov't Fin.*, 854 N.E.2d 90, 95 (Ind. Tax Ct. 2006); *see also Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). For a 2016 assessment, the valuation date was January 1, 2016. Ind. Code § 6-1.1-2-1.5.
 - c) In an effort to prove the 2016 assessment was incorrect, the Petitioner introduced two GRM analyses. Indiana law provides that the GRM method is the *preferred* method of valuing real property that has one (1) to four (4) rental units. *See* Ind. Code § 6-1.1-4-39(b) (emphasis added). But the burden still remains with the Petitioner to prove what the correct assessment should be.
 - d) The GRM method eliminates the complex value adjustments required by the sales-comparison approach by assuming differences between the properties are reflected in their respective rental rates. However, to derive and apply a reliable GRM for valuation purposes, the properties analyzed must still be comparable to the subject property and to one another in terms of physical, geographic, and investment characteristics. To establish that properties are comparable, a party must identify the characteristics of the subject property and explain how those characteristics compare to the purportedly comparable properties. *Long*, 821 N.E. 2d at 471. Specific reasons must be provided as to why a proponent believes a property is comparable. Conclusory statements that a property is "similar" or "comparable" to another property do not constitute probative evidence of the comparability of two properties. *Id.* at 470.
 - e) Here, Mr. Miller failed to adequately compare his purportedly comparable properties with the subject property. Based on his selection of purportedly comparable

properties, either located in subject property's neighborhood of Copeland Farms or nearby, the Board may be able to assume the properties are similarly situated. Beyond that, the Petitioner's evidence fails to provide any analysis of the comparability of the properties. Mr. Miller's comparison falls short of the level of comparison required by *Long*. Mr. Miller testified that he made adjustments in his first analysis to account for the following: neighborhood, time, square footage, and "likeness." However, both his evidence and testimony fails to adequately support such adjustments. The Board has repeatedly held that, in accordance with *Long*, such unsupported conclusions do not constitute probative evidence. No adjustments were made in his second analysis and the sales data utilized was well outside the relevant timeframe for a 2016 assessment appeal.

- f) Although Mr. Miller claimed that his first analysis was performed in accordance with USPAP, the Board finds little evidence that his sources for data are reliable. Mr. Miller failed to offer any supporting evidence, such as the actual sales disclosure forms, to verify that the sales he utilized reflected the market value. Without any verification, it is possible that the sale prices may not have been arm's-length transactions or market sales. There is also no evidence of whether the income data included income from sources other than rent. Finally, Mr. Miller offered no explanation as to why the rent and sales data he gathered from Zillow.com are any more reliable than the estimated property values, which he chose to ignore. Accordingly, the Board cannot conclude that the suggested multiplier is based on valid market data.
- g) Consequently, the Petitioner failed to make a prima facie case for reducing the assessment. Where the Petitioner has not supported its claim with probative evidence, the Respondent's duty to support the assessment with substantial evidence is not triggered. *Lacy Diversified Indus. v. Dep't of Local Gov't Fin.*, 799 N.E.2d 1215, 1221-1222 (Ind. Tax Ct. 2003).

Conclusion

18. The Board finds for the Respondent.

Final Determination

In accordance with these findings and conclusions, the 2016 assessment will not be changed.

ISSUED: April 18, 2018

Chairman, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

- APPEAL RIGHTS -

You may petition for judicial review of this final determination under the provisions of Indiana Code § 6-1.1-15-5 and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required not later than forty-five (45) days after the date of this notice. The Indiana Code is available on the Internet at <<http://www.in.gov/legislative/ic/code>>. The Indiana Tax Court's rules are available at <<http://www.in.gov/judiciary/rules/tax/index.html>>.